

Mr. Eldridge “ twelve votes.
 “ Savage “ four “

Mr. Taylor of Fannin then withdrew the name of Mr. Savage; and on the fifth ballot

Mr. Fontain received thirteen votes.

 “ Eldridge “ eleven “

Mr. Edward Fontaine having received a majority of the votes cast, was declared duly and Constitutionally elected Chaplain of the Senate for the present session.

On motion of Mr. Potter, a committee was appointed to act in conjunction with a like committee on the part of the House to wait upon the Governor, and inform him of the organization of the Legislature, and its readiness to receive any communication he might desire to make.

Messrs. Potter, Maverick and Britton were appointed the committee.

On motion of Mr. McCulloch, one hundred copies of the Rules of the Senate were ordered to be printed for the use of the Senate.

Mr. Potter, from the joint committee appointed to wait upon the Governor and inform him of the organization of the Legislature, reported the performance of that duty by the committee, and that the Governor would communicate with the Legislature to-morrow morning at 10 o'clock.

On motion of Mr. Scarborough, the Senate adjourned until to-morrow morning at 9 o'clock.

AUSTIN, Wednesday, November 4, 1857.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called, quorum present.

The Journal of yesterday was read and adopted.

The President announced the following

STANDING COMMITTEES.

COMMITTEE ON THE JUDICIARY—Messrs. Potter, Stockdale, Shepard, Graham, Paschal, Wigfall, Quinan, Pirkey, Martin, Guinn, and Taylor of Houston.

COMMITTEE ON FINANCE—Messrs. Grimes, Lott, Hyde, Burroughs, McCulloch, Millican and Herbert.

COMMITTEE ON PUBLIC LANDS—Messrs. Pirkey, Taylor of

Houston, Walker, Taylor of Fannin, Caldwell, Quinan and Potter.

COMMITTEE ON STATE AFFAIRS—Messrs. Wigfall, Runnels, Shepard, Potter, Taylor of Fannin, Graham, Stockdale, and Paschal.

COMMITTEE ON INDIAN AFFAIRS—Messrs. Caldwell, Maverick, Britton, Erath, Fall, Herbert, Taylor of Fannin.

COMMITTEE ON EDUCATION—Messrs. Quinan, Taylor of Fannin, Scarborough, McCulloch, Pedigo, Walker, and Britton.

COMMITTEE ON THE PENITENTIARY—Messrs. Lott, Taylor of Houston, Millican, Shepard and Grimes.

COMMITTEE ON INTERNAL IMPROVEMENTS—Messrs. Paschal, Stockdale, Throckmorton, Pirkey, Martin, Taylor of Cass, Burroughs, Wigfall, and Runnels.

COMMITTEE ON PRIVILEGES AND ELECTIONS—Messrs. Graham, Lott, Russell, Wigfall, Scarborough, Millican and McCulloch.

COMMITTEE ON COUNTIES AND COUNTY BOUNDARIES—Messrs. McCulloch, Erath, Walker, Paschal, Pedigo, Truit and Hyde.

COMMITTEE ON PRIVATE LAND CLAIMS—Messrs. Martin, Burroughs, Britton, Maverick, Pirkey, Truit and Erath.

COMMITTEE ON ROADS, BRIDGES AND FERRIES—Messrs. Herbert, Truit, Walker, Grimes, Fall, Russell and Wren.

COMMITTEE ON CLAIMS AND ACCOUNTS—Messrs. Guinn, Throckmorton, Martin, Maverick, Scarborough, Wren, and Taylor of Cass.

COMMITTEE ON PRINTING AND CONTINGENT EXPENSES—Messrs. Scarborough, Taylor of Fannin, Taylor of Houston, Graham and Lott.

COMMITTEE ON ENGROSSED BILLS—Messrs. Russell, Lott and Fall.

COMMITTEE ON ENROLLED BILLS—Messrs. Taylor of Houston, Stockdale and Burroughs.

COMMITTEE ON PUBLIC DEBT—Messrs. Taylor of Cass, Caldwell, Erath, Wren, Russell, Hyde and Pedigo.

COMMITTEE TO ACT IN CONJUNCTION WITH A LIKE COMMIT-

TEE FROM THE HOUSE, IN THE EXAMINATION OF THE TREASURER'S BOOKS AND ACCOUNTS—Messrs. Burroughs and Throckmorton.

COMMITTEE ON THE LAND OFFICE—Messrs. Wren, Britton, Quinan, Throckmorton, Fall, Truit and Erath.

Mr. Pirkey presented the petition of Wm. P. Wyatt; referred to the committee on State Affairs.

Mr. Caldwell presented the petition of William O. Burnam; referred to the committee on Public Lands.

Mr. Walker presented the petition of certain settlers on the Pacific Railroad Reserve; referred to the committee on Public Lands.

Also the memorial of certain citizens of the county of Tarrant praying for a change of the county seat; referred to the committee on Counties and County Boundaries.

Mr. Taylor of Cass offered the following resolution:

Resolved, That the Secretary of the Senate be authorized to employ two porters for the Senate, whose pay shall not exceed one dollar per day, each; and also to contract for wood for the use of the Senate; adopted.

Mr. Walker introduced a bill supplemental to, and amendatory of an act entitled "an act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad Reserve," passed August 26th, 1856; read 1st and 2nd times, and referred to the committee on Public Lands.

Mr. Walker introduced a bill to create the ——— Judicial District; read 1st and 2nd times, and referred to the committee on the Judiciary.

Mr. Throckmorton introduced a bill to amend an Act entitled an "Act for the relief of Arthur G. Wavil," passed August 27th, 1856; read 1st and 2nd times, and referred to the committee on the Judiciary.

Mr. Throckmorton offered the following resolution:

Resolved, That the committee on the Judiciary enquire into the expediency of amending or repealing an Act entitled "an Act to ascertain the legal claims for lands or money against the State," passed August 1st, 1856, and report by bill or otherwise; adopted.

Mr. Herbert presented the credentials of the Hon. Chauncey B. Shepard, Senator elect from the county of Washington, who came forward, took the oath of office and his seat.

Mr. Paschal introduced a bill to incorporate the Casino

Association of San Antonio; read 1st and 2nd times, and referred to the committee on the Judiciary.

Mr. Lott offered the following resolution:

Resolved, That the committee on Printing be instructed to contract with the Publishers of the State Gazette and the Southern Intelligencer for twenty numbers of each weekly issue for each member of the Senate; *provided*, that the cost shall not be more than five cents per copy, and that each weekly shall contain the proceedings of the Legislature.

Mr. McCulloch moved to amend by inserting after "number" the words "and officers;" lost.

The resolution was then adopted.

On motion of Mr. Taylor of Fannin, the Senate took a recess of ten minutes.

At the expiration of the time, the Senate was called to order—roll called—quorum present.

A message was received from the Governor transmitting his biennial message, which was, on motion of Mr. Potter read and is as follows: (*See next page.*)

MESSAGE.

Gentlemen of the Senate

and House of Representatives :

The pleasure experienced in meeting you on this occasion, is somewhat alloyed by the fact, that our usual prosperity has been interrupted, in some sections of the State, during the past two years, by a failure of crops caused by a drouth unexampled in the annals of the country. We have, however, abundant cause for congratulation, in the bountiful supply with which other sections have been favored, the remarkable health that has distinguished the past season, the continued increase of our population and the rapid extension of our settlements. These blessings should fill our hearts with devout gratitude to that Omnipotent Being whose power and goodness have been so remarkably manifested in our past history.

Many causes combine to render your present session one of unusual interest. You have assembled at a period when a large portion of the Union is laboring under financial embarrassments, that have suddenly depreciated the value of every description of property, and suspended, for a season, the operations of almost every branch of industry ; the cause of these embarrassments may be traced to the rapid increase of banks, that has taken place during the last few years of unusual prosperity, whose improvident issues of paper currency have

led to reckless speculation and an extension of credit beyond the reasonable demands of business.

Our State is but slightly affected by these calamities, and that we have, in a great degree, escaped them, is owing to the fact, that under our prohibitory legislation, no paper currency has ever been able to obtain a general circulation among us.

It is to be hoped that the present financial crisis and the causes that have produced it, will not be disregarded by those who are seeking to change our policy in regard to Banking.

In giving you a statement of the condition of our finances, it is gratifying to be able to communicate, that there has been a very considerable increase in the value of our taxable property during the past two years, though not so great as at some former periods. The total valuation of the assessment for the year 1856, was \$161,194,479 00, which produced an *ad valorem* tax of \$242,996 88. The poll tax for that year produced \$22,179 00, and the tax upon occupations and sales of merchandise \$29,037 91, making the entire tax, for that year, amount to about \$294,213 79, which was an increase of nearly eight per cent. over that for 1855.

The net revenue derived from this tax, after deducting the expenses for assessing and collecting, which amounted to about fourteen per cent., and the ten per cent. set apart by the Constitution, for schools, was \$229,289 53.

The total valuation for the year 1857, was \$183,594,205, which produced an *ad valorem* tax of \$276,901 54. The poll tax for the year produced \$24,225 00, and the tax upon occupations and sales of merchandise, \$26,536 34, making the entire tax, for the year, amount to about \$327,662 88, showing an increase of about eleven per cent. over that for 1856.

The net revenue produced by this tax, after deducting the expenses for assessing and collecting and the ten per cent. appropriated by the Constitution for schools, was about \$255,044 05.

of 1860 will be received into the Treasury until near the middle of the year 1861.

It has, therefore, become a matter of necessity that we shall now abandon that practice.

Should we hereafter retain the taxes for the use of the State, the *ad valorem* tax may safely be reduced, from the present rate of fifteen cents to ten cents on the \$100, and the poll tax from fifty to forty cents. It is true, that with this reduction, they will not produce a revenue sufficient to meet the ordinary expenses of the years 1858 and 1859, but whatever deficiency there may be, can be supplied from the funds now in the Treasury, and long before these funds will be exhausted in paying such deficiencies, and the extraordinary appropriations that will be required, the increased value of our taxable property will produce, at the reduced rates, an ample revenue to meet all our wants.

A thorough investigation of this subject has satisfied me that this reduction may be made and that we shall still have ample means to meet all appropriations here recommended, and all others that justice and sound discretion may dictate.

I cannot omit, on this occasion, calling your attention to the fact that justice has not been done to a portion of the creditors of the late Republic of Texas. Under the act of the Congress of the United States, providing for the payment of those creditors whose debts were secured by a pledge of the impost duties of the late Republic, which was accepted by the last Legislature, all those debts have been paid at the rate of seventy-six cents and nine-tenths of a cent on each dollar of their ostensible value, although they were classified and acknowledged by the State at different rates, varying from twenty to one hundred cents on the dollar. Among the debts so classified and acknowledged, were \$29,291 47 of ten per cent.

Some of these figures may be slightly changed by the official reports, which are not yet completed.

It will be seen that the net revenue from taxation, for the two years of 1856 and 1857, was about \$484,333 58, which is about the same as the appropriations for the ordinary expenses of the government for those years, including the amounts appropriated for the support of the Insane Asylum, the Institutions for the education of the Blind, the Deaf and Dumb, and for the Penitentiary.

On the first day of the present month, the funds in the State Treasury, exclusive of the School Fund, amounted to \$1,230,000 00; but of this sum about \$470,000 00 are subject to be drawn, for the payment of appropriations heretofore made, so that the actual balance in the Treasury, applicable to future appropriations, is only about \$760,000 00.

The ordinary expenses of the government, during the next two years, will be considerably more than they were for the two past years. Several new Judicial Districts will have to be created for the accommodation of the newly established frontier counties; and certain costs in criminal prosecutions, which under the provisions of the Code of Criminal Procedure, are to be paid by the State, to clerks and sheriffs, will have to be provided for.

The probable amount that will be required to meet the ordinary expenses of the government, during the next two years, is about \$540,000 00. The funds now in the Treasury will be sufficient to pay these expenses, and all extraordinary appropriations that should be made at the present session; but if we rely on these funds alone, and release to the counties the taxes of the ensuing two years, as we have those of the last six, we shall find ourselves with an exhausted Treasury, during the succeeding two years of 1860 and 1861; for none of the taxes

bonds issued to Samuel Swartwout and others, for a loan obtained from them during the first year of our revolution, \$65-208 1/33 in the first issue of promissory notes made by the Republic, which were paid out by the government at par, and \$960,498 in ten per cent. bonds issued to the United States bank, for a loan obtained in the year 1839; the first two of which were classified and acknowledged at their ostensible value, and the last at eighty-seven cents and forty-five-hundredths of a cent on each dollar of its ostensible value. The holders of these debts received under the act of Congress, before referred to, only seventy-six cents and nine-tenths of a cent on each dollar of their ostensible value, and there is still justly due them the difference between what they so received, and what the State acknowledged to be due them, which amounts to \$123,-217 56. These debts were among the most meritorious that were owing by the Republic, and they are the only ones that have not been paid at as high a rate as they were acknowledged. The holders of these debts were always willing to accede to the terms of payment proposed by Texas, but owing to the refusal of the other creditors to accede to these terms, they could not be paid. When our Legislature accepted the act of Congress, before referred to, the holders of these debts, acting on the principle that had previously governed them, of throwing no obstacles in the way to prevent us from settling the whole debt as we thought proper, readily acceded to it, received their pro rata, although much less than we had acknowledged to be due them, and signed released

When this matter was before Congress, it was objected to the bill, that these creditors would not receive as much under its provisions, as Texas had acknowledged to be due them, and to obviate this objection, that provision was inserted, by which the United States were to refund to us the amount we

had already paid on a portion of the debt, which it was supposed would be sufficient to enable us to make up to these creditors what they would lose by accepting the pro rata payment proposed.

We have received under that provision the sum of \$298,065 35, which is more than double the amount due to these creditors.

This whole subject was fully canvassed by the last Legislature, when the act of Congress was accepted, and a bill for the payment of these debts passed the Senate and received a very considerable majority in the House of Representatives, but it failed to become a law, owing to a decision of the House, in opposition to the opinion of the Speaker, that it required a vote of two-thirds to pass such a law. This decision was based upon the mistaken ground that, as the holders of these debts had signed releases, when they received their pro rata payment under the act of Congress, their claims were extinguished, and any further payment to them was a gratuity which could only be made by a two-third vote.

Whatever may be said in regard to the releases signed by these parties, the facts are undeniable, that we, by our legislation have acknowledged their debts to be justly due, that they have never been paid, that the situation of these creditors compelled them to sign those releases in order to obtain from the United States any portion of their debts, and that every other creditor of the Republic, whose debt was secured by a pledge of the impost duties, has been paid the full amount that the State acknowledged to be due him.

I have been thus minute in detailing the circumstances in relation to these claims, in order that the subject may be properly understood, for I feel that the honor and the reputation of our State require that they should be paid.

The reports of the State Treasurer, as Ex-Officio Superintendent of Common Schools, for the years 1856 and 1857, show that the principal of our School Fund has been increased to about two millions and two hundred thousand dollars, under the provisions of two laws of the last session, by which the ten per cent. of our annual revenue set apart by the Constitution for schools, and the proceeds of the sales of all public lands within the limits of the Mississippi and Pacific railroad reserve, are annually added to this fund.

Should these judicious provisions remain undisturbed, and a similar law be enacted, for the sale of our public lands in other parts of the State, the proceeds to be added to this fund, it will hereafter be increased over a hundred thousand dollars each year.

The number of scholars reported for the year 1856, was 72,826, and the amount disbursed for schools, from the income of the fund, was \$101, 588 00, being about one dollar and thirty-eight cents for each scholar.

The number reported for 1857 was about 87,000, and the amount disbursed from the income of the fund was \$106,000, being about one dollar and twenty-one cents for each scholar.

While the amended school law of the last session, has proved to be much more satisfactory to the people than the former law, many imperfections have been discovered in its details, that will require revision.

Your attention is particularly invited to the suggestions and recommendations contained in these reports. They are the results of the experience of the superintendent and others, in witnessing the practical operation of the present and former law, and are worthy of your serious consideration.

On former occasions, I have called the attention of the Legislature, to the importance of establishing a State University, where all the facilities can be furnished for obtaining a thorough education, that are to be found in other States ; and I feel that I should be wanting in duty, did I fail to urge this measure upon your consideration. No country was ever better situated to commence such an undertaking. We have ample means in the Treasury, not needed for other objects, with which to erect the necessary buildings ; and we have two hundred and twenty one thousand and four hundred acres of land already set apart by your predecessors for a University, the proceeds of which, if properly managed, will be a liberal endowment, and will enable us to command the services of the ablest professors in every department of learning.

The necessity for such an institution is felt and acknowledged by every one ; and I trust that you will not let this session pass, without adopting measures for its establishment at an early day.

The residue of the University Lands, to make up the fifty leagues, have been selected and surveyed in accordance with the provisions of an act of the last legislature.

But little progress has been made, under the act authorizing the University Lands, heretofore located, to be divided into quarter sections, and alternate tracts thereof, to be sold. Only two District Surveyors have made returns of their work to the General Land Office ; and one of these was so imperfect that it had to be sent back for correction. I have not thought it advisable to commence the sale of any of these lands, until all, that are situated in the same section of the State are ready for sale, under the law.

I transmit, herewith, the reports of the Trustees and Superintendents of the Institutions for the Education of the

Blind ; and of the Deaf and Dumb. The small annual appropriations of five thousand dollars, made by the last legislature for each of these institutions have been sufficient to put them in operation, and to support them during the year. Many difficulties have been encountered by the Trustees in commencing and putting these institutions into successful operation, and great credit is due to them for having so disinterestedly given their time and labor without compensation, to the accomplishment of these benevolent enterprizes.

The education of these unfortunate classes of our population is no longer an experiment in this State. The former institution had on the 1st of October last, seven pupils, and the latter eleven, all of whom, under the judicious management and instruction of the superintendents and teachers, have made rapid progress, in the acquisition of knowledge, that has opened to their minds the divine truths of religion, given them a capacity for the enjoyment of life, they could not otherwise have obtained, and will fit them hereafter to become useful members of society.

Few establishments of the kind have been as successful in the first year of their organization, and this is to be ascribed to the assiduous and well-directed labors of the Trustees, and their good fortune in having secured the services of superintendents, who are well qualified and admirably adapted, from their education, disposition and habits, to the duties they have undertaken.

Buildings have been leased in the vicinity of this city, for the temporary use of these institutions, and I recommend that provision be made for the purchase of sites, and the erection of permanent buildings. The suggestions and recommendations contained in these reports, are commended to your con-

sideration, with full confidence that you will not fail to foster and encourage what has been so well begun.

Some delay occurred in the selection of a site for a Lunatic Asylum, in accordance with the provisions of a law of the last Legislature, owing to the fact, that one of the Commissioners first appointed, was unable to serve.

The Commission, as finally organized, consisted of Samuel Bogart of Colin county, E. T. Branch of Liberty county, and C. R. Johns of Hays county. They selected a site in the vicinity of this city, containing fifty acres, which cost twenty-five hundred dollars, two hundred and fifty of which were paid by the State, and the residue by the citizens of this place. A doubt afterwards arose in regard to the title obtained by the Commissioners, owing to the existence of an adverse claim to the land. This has since been removed by a release from Thomas J. Chambers, voluntarily executed.

Immediately after the selection of the site, the Building Commissioners turned their attention to the preparation of a plan for such an institution. At the outset, they found themselves embarrassed for want of proper information on the subject. Their investigations soon satisfied them that without the assistance of some one familiar with the treatment of insanity and the interior arrangement of Insane Hospitals, they could not have a suitable plan prepared. It was therefore deemed best, that a competent superintendent of the institution, should be appointed at once, and that the necessary buildings should be planned and erected under his supervision and direction.

Dr. John C. Perry, a physician, whose previous education and experience in similar institutions, render him well qualified for the station, was accordingly appointed, and is now engaged in the preparation of a plan and specifications for a sui-

table building, which will shortly be completed, when the Commissioners will proceed to contract for its construction, in accordance with the provisions of the law under which they act.

The four hundred thousand acres of land appropriated by the last Legislature for the Lunatic Asylum, the institutions for the education of the Blind and the Deaf and Dumb, and for an Orphan Asylum, were all selected within the limits of the Mississippi and Pacific Railroad Reserve, and entries of them were made in the proper land districts, before the 1st day of March last. A part of them were also surveyed before that day, and the residue have since been surveyed. These lands are believed to be as valuable as any that were vacant at the time. They are in a section of the State, which is now settling up rapidly, and where, if it is thought desirable, they may be sold for good prices, at an early period.

Application will be made to you, for relief, to those who settled upon public land, within the Mississippi and Pacific Railroad Reservation, between the 21st of December 1853 and the 26th of August 1856. It will be recollected, that under the provisions of the "act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad Reserve," all those who were then settled within it, upon public land, were required to pay to the Commissioner of the General Land Office, on or before the 1st of January 1858, fifty cents per acre, for their settlements, not to exceed one hundred and sixty acres.

Efforts will doubtless be made, to obtain from the State, a release of these lands, without any payment by the settlers. To understand the merit of their claim to this gratuity, reference should be made to the circumstances under which they entered the reservation. In December 1853, all the public

lands within certain specified limits were reserved from settlement and location. Alternate sections thereof were set apart to encourage the construction of a railroad from the eastern line of the State to El Paso ; and the residue was reserved to the use of the State until otherwise directed by law, with a general understanding that it should constitute a fund for purposes of education and internal improvements. While this district of country was thus reserved for objects of the greatest interest ; and while thousands of our citizens holding head-right, donation and bounty certificates, issued to the early colonists and soldiers of the Revolution, were deprived of the privilege of locating them within its limits, these settlers, many of whom had been but a short time in the State, entered this reservation and took possession of the choicest lands to be found, in direct opposition to our policy and in violation of our positive law. Being thus in possession, when the reservation was opened, they were permitted to retain their lands, at the paltry price of fifty cents an acre, to be paid without interest, at the expiration of sixteen months, although it is a matter of public notoriety, that they would then have brought from one to five dollars per acre, at public sale, exclusive of the improvements upon them.

The mere statement of these circumstances, would seem to be a sufficient answer to an application for such a gratuity.

Those of you, who were here at the last session, know how pertinaciously a donation of these lands was then insisted on, and how difficult it was to retain this provision ; its retention was considered as the first step taken towards making our public lands available hereafter for objects of public utility. If we now refuse to retrace that step, our future course will be a plain one, and we may hope, in time, to realize from the sale of our public domain, the means for supporting a general

system of education, and aiding in the construction of railroads without which, we shall make but slow progress in developing the resources of the State.

Should these parties limit their application for relief, to an extension of the time within which, to pay for their lands, it should be granted; for it is well known that the disasters that have attended the cultivation of the soil in that section of the State, during the last two seasons, have prevented those engaged in this occupation, among whom are most of these settlers, from making anything beyond a subsistence.

A law permitting them to pay for their lands in two instalments, at one and two years with interest, will be cheerfully approved.

Some provision should be made for the sale of the alternate sections of land reserved to the use of the State under the act to encourage the construction of railroads by donations of land, and the act granting land to the Galveston and Brazos Navigation Company.

The State now has six hundred and fifty-seven sections equal to 420,480 acres, of land thus surveyed and reserved,, which are "not liable to locations, entries or pre-emption privileges." She will in a few months have four hundred and ninety-four additional sections, equal to 315,160 acres; and the quantity will be increasing as other sections of road are completed.

Some of these lands are situated in parts of the State where settlements are now being made and others where they will be made before the meeting of another Legislature, previous to which time, it is more than probable, that many of them will have been taken possession of by individuals, with the hope that they will be able to obtain them by donation, or be allowed to retain them for a more

nominal price. It is therefore desirable, that we shall now, before any interest has been created to favor such a misapplication of them, establish a price at which parties may enter and purchase them. We shall thus take away all pretext for trespassing upon them, and indicate in the most positive manner, our intention that they shall be applied in good faith, to education and internal improvements as was originally intended.

Under that provision, of the "act to authorize the location sale and settlement of the Mississippi and Pacific railroad reserve," which allows the Commissioner of the General Land Office, to issue land scrip, at fifty cents, per acre to be located within that reserve, he has since the 1st day of March last issued 57,710 acres.

If similar scrip were authoized to be issued and located upon any part of our public domain, it is believed there would be much demand for it, as land certificates are becoming exceedingly scarce, and their value has appreciated nearly to the price of scrip. Many would prefer purchasing such scrip, even if they pay more for it, as they thereby avoid all danger from the impositions and frauds so often practiced in the sale of certificates.

Should such scrip be authorized, none should be sold for a less quantity than eighty acres, and each piece of scrip ought to be located in a square form and in one place only, except in cases where previous surveys do not admit of it.

A law was passed by the fifth Legislature, by which the Governor was authorized to appoint a commissioner and Surveyor to run and mark the boundary line between our State and the Territories of the United States from the point at which it leaves Red River to where it intersects the Rio Grande, whenever the United States should appoint the necessary

officers on her part to join in the work : Immediately after this law was passed, a correspondence was opened with our Senators and Representatives in Congress who were requested to procure the passage of a law, for the appointment of the necessary officers on the part of the United States. They had the subject brought before Congress, but I am not aware that any final action has been taken upon it. Our citizens are now making Surveys of land along that line, and settlements will soon follow, it is therefore important that measures be taken to run the line, or at least to ascertain and mark on the ground, the point at which it leaves Red River, without the co-operation of the United States, should that be much longer delayed.

During the early part of the present year, information was received that many of the county courts, within the limits of what was known as Peters' Colony, were issuing land certificates upon illegal evidence, and to persons not entitled to them.

Commissioners were immediately appointed, under the authority vested in the Executive by the "act to ascertain the legal claims for money and lands against the State," who were instructed to examine the records of the county courts in all those counties, and to enquire into the manner in which they were kept, and make a full report, as early as convenient, in relation to all cases where these courts, or any of them, had violated the laws enacted for their government.

Some of the commissioners first appointed, having declined to serve, the organization of the Board was greatly delayed.

The commission as finally organized, consisted of H. G. Hendricks and James M. Head of Grayson county, and E. P. Nicholson of Dallas county. Their report has not yet been received, but may be expected at an early period of your

ssion. When received it will be transmitted to you with such recommendations, as the nature and extent of the frauds disclosed, may seem to require.

The first annual report of the Board of School commissioners, organized under the "act to provide for the investment of the special school fund in the bonds of Railroad companies incorporated by the State," is herewith submitted.

But two loans have yet been made by this board. One of one hundred and fifty thousand dollars to the Houston and Texas Central Railway company on the 13th day of April 1857, under which the bonds that constitute said fund were taken by the company at a premium of six per cent ; that being the rate, at which they were then redeemed at the United States Treasury. The other was a loan of sixty thousand dollars to the same company, made on the 28th day of October 1857, under which, it is presumed that no premium will be obtained on the bonds, since it was understood here unofficially, on that day, that the United States had ceased redeeming them ; a premium of five per cent was however retained, until advices can be received in regard to what premium, if any, they bore in New York, when the whole or such portion thereof, as may be right, will be returned.

The Buffalo Bayou, Brazos and Colorado company, applied some time since, for a loan of one hundred and fifty thousand dollars, and an Engineer was appointed to examine and report whether the condition of the road was such as to entitle the company to the loan, but no report has yet been received.

The operation of the law, authorising these loans, has not proved as advantageous to our railroad companies, as was anticipated by its advocates. The amount loaned under its provisions is not sufficient to afford them much relief, and they

cannot readily obtain a second loan after their road has been mortgaged to the State.

The means for grading, procuring the cross-ties and laying down the iron, can be raised, within the State, by most of our roads that are now making any progress, but the iron cannot be obtained without money, or such paper as can be readily converted into money; neither of these can be obtained from our own citizens for any great extent of road; few of them have any money or cash paper beyond what they require for their ordinary business, and those who have, find more certain and more profitable modes of employing it than investing it in railroad stock, or loaning it for a second mortgage on a railroad.

It is not believed that any aid, granted to our railroad companies, short of the means necessary to purchase their iron, will enable them to prosecute their roads with a rapidity that will meet public expectation.

Notwithstanding this belief, I am not disposed to recommend the substitution of any other system for giving aid by the State, in the construction of railroads, than that now pursued, while we retain in our Constitution its present restrictions upon the power of the Legislature, in regard to the subject of internal improvements.

The present system was adopted after mature deliberation, and seems to be satisfactory to the great majority of our citizens; it is perhaps as good as any we can adopt without a change of our Constitution; it enables a few companies to struggle along and accomplish something, though it is much to be feared that the present embarrassed situation of the money market will prevent, even these companies, from making any progress during the next two years beyond the completion of such contracts as have already been entered into.

Much complaint is made of that provision of this law which

requires a company to have twenty-five miles graded, in advance of that which has been completed, before it is entitled to a loan upon any section of completed road, though this provision is believed to be the best security the State has for the re-payment of the loan, since no road can be completed and equipped, twenty-five miles in length, with an additional twenty-five miles graded, at a cost of much less than three hundred and sixty thousand dollars in actual money ; and such an amount cannot be raised and invested in a railroad, at any point in the State, where there is not a certain prospect of obtaining sufficient business to make the road undoubted security for a loan of one hundred and fifty thousand dollars.

While it is not thought advisable to change this provision, there would seem to be no good reason why a company that has received a loan upon twenty-five miles of completed, and twenty-five miles of graded road, should not receive a further loan upon each additional section of five or ten miles that it may complete, without being required to make any additional grade in advance.

Such of our railroad companies as have invested any considerable amount in their roads, but have failed to comply with all the requirements of their charter, or of our laws, for the encouragement of their construction, in regard to time, should be allowed a reasonable extension in all cases, where they are not possessed of powers and privileges which are not given to all other companies. But where they are possessed of such powers and privileges, an extension should be granted only on condition that the company consents to such restrictions of its powers and privileges as experience has shown to be necessary for the protection of the rights and interests of the State or any of its citizens.

It is much to be regretted that we did not at first, adopt

the principle of granting to all our railroad companies, similar powers and privileges; if we had, there never would have been any inducement for besetting the Legislative halls with applications for extraordinary favors.

If we would now remove this inducement we ought, as early as possible, to bring all railroad charters to the same standard; this we can easily do, as companies apply for relief; for there are few, if any, that will not require it.

Before dismissing the subject of railroads, I wish to call your attention specially, to the 12th section of the "act to encourage the construction of railroads in Texas, by donations of land" by which those roads whose terminus is on the Gulf coast, the Bays thereof, or on Buffalo Bayou, are subjected to a provision, that requires the construction of twenty-five miles of their road, within two years after the passage of their charter, and twenty-five miles each year thereafter. No good reason can be assigned why these roads should be subject to such a provision, when all other roads in the State are exempt from it; it has hitherto caused them much inconvenience and embarrassment, and will continue greatly to retard their progress.

The reports of the Directors, Superintendent, Financial Agent and Physician of the State Penitentiary are herewith submitted for your consideration. Its affairs appear to have been well managed. For something over a year, a large portion of the convicts have been employed in the manufacture of cotton and woollen goods, which have found a ready sale and the results are highly encouraging. It is confidently expected, by the officers, that the Penitentiary will hereafter be able, with the labor of the convicts, not only to support itself, but to yield some profit to the State, instead of requiring an annual appropriation of about twenty thousand dollars.

You will find in these reports much useful information in

regard to its management, and many suggestions and recommendations worthy of your attention.

The Penal Code adopted by the last Legislature, has now been in force nearly a year; and its practical operation has shown some omissions that should be supplied, and some imperfections that should be amended. The general principles upon which it was framed are such as should commend themselves to public favor. It contains within a small compass and in intelligible language, suited to the comprehension of the most ordinary capacity, the whole criminal law of the State. I am apprised that it has not escaped severe censure; but it will be found that those who have condemned it the most, are often those who have not thoroughly studied its provisions, and that many parts of it, which are a subject of complaint, are but the re-enactment of provisions of the common law, that were in force here when the Code was adopted.

The most salutary changes in the law often meet with opposition, until the community, for whom they are designed, become accustomed to their operation; and it is believed that if this Code had been tried for two years, instead of one, very few, if any, could be found to favor its repeal.

The report of the Attorney General which is submitted herewith, contains many valuable suggestions in relation to the Penal Code and the Code of Criminal Procedure, which are commended to your favorable consideration.

The reports of the present and former Commissioner of Claims, will be presented to you in a few days, with a special message in regard to the operations of that office, and such changes as experience has shown to be necessary in the law governing its business.

It devolves upon you, at your present session, to make provision for an enumeration of the free inhabitants and

electors of the State, under the provisions of the 29th Section of the 3rd Article of the Constitution, preparatory to a new apportionment of Senators and Representatives, to be made at the succeeding session. If you were to require this enumeration to be made, by the Assessor and Collector of each County, at the same time, that he takes the census of our scholastic population, it would add but little to his labor and could be done for a small additional compensation.

In making each of our former apportionments, the inhabitants and electors of many counties, from which no enumeration had been returned, had to be estimated from the best data that could be obtained. To prevent a recurrence of this inconvenience, such a penalty for a failure to perform the duty, should be imposed upon those intrusted with it, as will insure a prompt return from every county in the State.

I would suggest the propriety of requiring the Assessors and Collectors, while making this enumeration, to obtain as accurate information as possible, in regard to the quantity of land in cultivation, and the value of our agricultural, mechanical and manufacturing productions, for the preceding year. In this way, without much expense, valuable information could be obtained, which would be highly useful, not only to our own citizens, but to those of other States and Countries who are desirous of selecting a home among us.

The attention of your predecessors has frequently been directed to the importance of having a Geological Survey of the State. Public opinion demands that this measure shall no longer be delayed.

The amendment to the Constitution, proposed by the last Legislature, by which the Governor was to be authorized to make temporary appointments to fill vacancies in the offices of Judge of the Supreme and District Courts, Attorney Gen-

eral, District Attorney, Comptroller of Public Accounts, Treasurer of the State, and Commissioner of the Land Office, until they could be filled by the people at a general election, was published and submitted to the electors at the last August election, in accordance with the requirements of the Constitution. But I regret to inform you that it was lost by the failure of a large number of electors to vote upon it.

You are aware that to adopt an amendment to the Constitution, it must receive a majority of the votes of those who vote for Representatives. The entire vote given for Representatives, at the late election, so far as it can be ascertained, from the returns made to the Secretary of State, was 48,700, several counties having failed to make any return of the votes for Representatives ; only 29,858 of that number voted on the amendment, of whom 18,756 voted for, and 11,102 against it. So that, including those who voted against it with those who failed to vote, 29,944 must be counted as against the amendment, while but 18,756 voted for it.

The result of the vote upon this salutary amendment, against which no reasonable objection could be offered, and against which no strong opposition was manifested, shows that, owing to the indifference with which a great number of our electors treat such questions, it will be exceedingly difficult ever to adopt an amendment to the Constitution, strictly in accordance with its provisions, however desirable it may be, and has deterred me from recommending for your consideration any of those amendments heretofore urged upon your predecessors.

This result also induces me to suggest the propriety of your causing the opinion of the electors of this State to be taken at the next August election, whether a convention should be called to amend the Constitution.

The situation of the State has changed so materially since our Constitution was framed, that in many important particulars, it requires radical amendments to adapt it to our present wants. Then we had but thirty-six counties, and only about one hundred and fifty thousand inhabitants—now we have one hundred and sixteen counties, with a population of more than half a million, scattered over nearly three times the extent of country they then occupied. Greater changes have occurred here, in a period of twelve years, than usually happen during several generations in older communities, where it is found necessary for each succeeding generation to revise their Constitution.

You will receive, herewith, a copy of the proceedings of the Governor, State Engineer and Comptroller, in discharge of the duty imposed on them, of making an apportionment of the appropriation for the improvement of the navigation of the rivers and other navigable waters of the State. This paper contains a statement of the amount of the fund that was assigned to each navigable stream or Bay, for which private subscriptions were made and returned within the time limited by the law.

A full and detailed report of the operations of the State Engineer is expected in a few days, which will be laid before you with a report of the acts and proceedings of the Executive in relation to the fund.

Your attention is invited to the propriety of making a change in the fiscal year, so as to have it end on the 31st day of August. It now ends on the 30th day of October, and it is impossible for the reports of the Comptroller, Treasurer and Commissioner of the General Land Office, to be made out and transmitted to the Legislature, until it has been sometime in session. The consequence is, they are not usually print-

ed in time for distribution, before the adjournment takes place.

The business of the Legislature might be greatly facilitated by the passage of a law, requiring all Public Officers, Boards and Institutions, whose duty it is to report to the Legislature or Governor, to include in such reports, all transactions for the year ending on the 31st day of August, and transmit them to the Secretary of State on or before the 1st day of October, whose duty it should be to have them printed and laid before the Legislature at the commencement of the session. A similar practice is found to work well in many of the States.

The State ought to be able, at all times, to supply its officers with all its statutory laws. This it has been unable to do for some years past, owing to the fact, that those of the first and second Legislatures and of several sessions of the Congress of the Republic are entirely out of print. Provision should be made for a reprint of all the general laws both of the Republic and State, and the edition should be sufficiently large to supply our future wants.

Measures have been taken for the commencement of a Library for the State; a law of the last Legislature having appropriated five thousand dollars for that object, to be expended under the direction of the Governor. In the selection of books, care has been taken to order all such as might be useful to the Legislature and those engaged in the other departments of the government. Some of the books have been received and others will probably arrive before the close of your session.

An appropriation will be required for fitting up the Library room, and provision should also be made for a Librarian.

Our frontier counties have not been entirely exempt from Indian depredations during the past two years, though such occurrences have not been as frequent as at former periods.

Brig. Maj. Gen. Twiggs, who is now in command of this Department, has done every thing in his power to give entire protection to our citizens ; but the force under his command is altogether too limited. I am assured that he has already applied for such an increase of force as will be adequate to that object, and that if no troops from other Departments can be sent here, he is desirous that a regiment of mounted men from this State shall be called into service for one or two years, and will give his co-operation in obtaining the sanction of Congress to such a measure.

The recent outrages committed upon persons engaged in transporting Merchandise on the public highway, in some of our western counties, as well as the measures adopted by the Executive to prevent a recurrence of them, will be made the subject of a special Message, that will be sent in at an early day of the Session.

Our relations with the Federal Government, and with the different States composing it, are a subject of deep anxiety to every patriot. The rapid strides made in the last few years, by a party in the Northern States, organized with the avowed object of endeavoring to effect the abolition of slavery as it now exists in fifteen States and some of the territories, has very justly excited fears for the perpetuity of the Union. Such movements tend inevitably to destroy that harmony which should exist between different parts of the same nation, and cannot fail, if persevered in, to produce the most disastrous results. The people of Texas are attached to their domestic institutions ; they ask nothing for them, from the Federal Government, but those rights guaranteed by the Constitution, and any infringement of these rights will never be submitted to.

The threatening aspect this subject assumed during the last year, has been changed for the present, by the result of the

late Presidential election. We have every reason to expect that during the continuance of the administration of our present Chief Magistrate, the rights of the South will receive that protection guaranteed by the Constitution, since his policy, thus far, as indicated by his official acts, conforms to the principles upon which he was elected.

We have been called, during the past year, to mourn the death of several citizens holding important official stations. I allude to Judge Webb of the 14th Judicial District, Judge Lipscomb of the Supreme Court, and Gen. Rusk, one of our Senators in the Congress of the United States.

The two former had occupied high judicial stations before their removal to this country. They participated largely in the public affairs of both the Republic and State of Texas, and enjoyed a high degree of public confidence. Both were taken from us in the midst of their usefulness while actively engaged in their judicial duties. Their virtues and their public services will ever keep them in grateful remembrance.

Gen. Rusk had been an important actor in all the prominent scenes of the eventful history of our Republic. Often called to places of high trust in the field and in her councils, he proved himself equal to every emergency. When called to a more extended field of usefulness, he established for himself a reputation in the councils of the nation that placed him in the first rank of statesmen, and reflected lustre upon the State to whose service his life had been devoted.

My connection with you, as a co-ordinate department of the government, must necessarily cease before much of the important business of your session will have been matured ; but during the short period of our association, it will give me pleasure to co-operate with you in all measures of legislation that the welfare of our citizens may demand.

The present situation of our State is well calculated to excite the most flattering hopes in regard to its future destiny, and I scarce need add, that it imposes a high individual responsibility upon those who are intrusted with the direction of its public affairs. It is my ardent prayer that we may, under the favor of Providence, be able to acquit ourselves of that responsibility, in such a manner as will meet the approval of our mutual constituents.

I cannot close this communication, the last of the kind I shall have the honor to make, without tendering, through you, to the people of Texas, my sincere gratitude for the many evidences I have received of their confidence, and for the uniform indulgence they have extended to my official acts. In retiring from the responsible station with which they have twice honored me, the only regret I shall feel, will be, that I had not the power to serve them as well as my inclination prompted.

E. M. PEASE.

EXECUTIVE DEPARTMENT, NOV. 2, 1857.

A message was received from the House informing the Senate that the House had concurred in the Senate's resolution to go into the election of Public Printer, and to open and compare the votes for Governor and Lieut-Governor at half-past 11 o'clock on this day.

On motion of Mr. Potter, the Senate took a recess of ten minutes.

At the expiration of the time, the Senate was called to order, and proceeded to the Hall of the House of Representatives for the purpose of electing a Public printer, and counting the votes for Governor and Lieutenant-Governor.

IN JOINT SESSION.

The Speaker announced that the two Houses had convened for the purpose of electing a Public Printer, and counting the votes for Governor and Lt. Governor.

Nominations being in order:

Mr. Lott nominated Mr. John Marshall on the part of the Senate.

There being no other nominations--the following Senators voted for John Marshall:

Messrs. Britton, Burroughs, Caldwell, Erath, Fall, Graham, Guinn, Herbert, Hyde, Lott, McCulloch, Martin, Maverick, Paschal, Pirkey, Potter, Russell, Scarborough, Shepard, Taylor of Cass, Taylor of Houston, Truit and Walker--23.

Mr. Grimes voted for Baker & Root.

On the part of the House, Mr. Marshall received 64 votes; Baker & Root five votes; scattering two votes.

Mr. Marshall having received a majority of the votes cast, was declared by the Speaker, duly elected Public Printer.

The two Houses next proceeded to open and compare the votes for Governor and Lieutenant-Governor.

Mr. Graham was appointed teller on the part of the Senate, and Messrs. Ktitrell and Rainey on the part of the House.

On counting and casting up the vote, the result was as is shown in the following table:

COUNTIES.	<i>For Governor.</i>		<i>For Lieut. Governor.</i>		
	H. R. RUNNELS.	SAM HOUSTON.	F. R. LUBBOCK.	JESSE GRIMES.	E. SMITH.
Andersen - - -	606	470	603	425	
Angelina - - -	71	170	65	166	
Atascosa - - -	183	95	178	59	16
Austin - - -	424	273	438	259	
Bandera - - -					
Bastrop - - -	415	248	432	240	
Bell - - -	297	215	296	194	19
Bexar - - -	927	521	950	469	19
Bosque - - -	104	45	113	33	
Bowie - - -	262	54	240	67	
Brazoria - - -	349	58	384	26	
Brazos - - -	73	149	55	157	
Brown - - -	12	4	16		
Burleson - - -	290	338	292	315	
Burnet - - -	130	104	140	41	3
Caldwell - - -	345	277	357	271	45
Calhoun - - -	185	156	200	94	43
Cameron - - -	670	76	681	71	
Cass - - -	587	369	580	356	
Cherokee - - -	925	824	939	765	
Collin - - -	469	360	482	293	4
Colorado - - -	316	167	321	152	
Comal - - -	313	37	318	33	2
Comanche - - -	68	49	75	9	
Cooke - - -	126	100	131	70	
Coryell - - -	167	138	187	116	
Dallas - - -	569	404	589	318	
Denton - - -	230	192	233	137	17
DeWitt - - -	244	178	302	24	40
Ellis - - -	326	253	332	230	7
El Paso - - -	898	14	804		3
Erath - - -	29	33	41	9	
Falls - - -	113	214	114	214	

Fannin - - - -	439	221	459	150	4
Fayette - - - -	601	467	580	494	
Fort Bend - - - -	212	126	221	105	
Freestone - - - -	336	225	342	226	
Galveston - - - -	451	180	476	181	2
Gillespie - - - -	256	31	276	3	
Goliad - - - -	126	152	150	126	4
Gonzales - - - -	479	390	491	342	28
Grayson - - - -	492	361	468	318	
Grimes - - - -	287	354	283	355	
Guadalupe - - - -	354	255	344	70	182
Harris - - - -	685	474	728	435	
Harrison - - - -	601	556	601	563	
Hays - - - -	86	129	85	130	2
Henderson - - - -	289	145	296	130	
Hidalgo - - - -	210	3	220		
Hill - - - -	120	171	118	168	
Hopkins - - - -	600	348	593	251	10
Houston - - - -	422	313	445	275	
Hunt - - - -	386	257	382	130	61
Jack - - - -	26	32	26	26	5
Jackson - - - -	74	115	86	92	
Jasper - - - -	216	161	233	137	
Jefferson - - - -	95	97	92	52	
Johnson - - - -	149	203	171	90	42
Karnes - - - -	121	143	147	50	58
Kaufman - - - -	249	219	252	195	
Kerr - - - -	33	20	36	12	1
Kinney - - - -					
Lamar - - - -	632	343	636	304	
Lampasas - - - -					
Lavaca - - - -	336	216	368	116	34
Leon - - - -	365	355	345	377	
Liberty - - - -	259	176	261	173	1
Limestone - - - -	352	193	350	195	
Live Oak - - - -	68	64	67	36	28
Ilano - - - -	70	23	62	7	
McCulloch - - - -					
McLennan - - - -	260	291	269	282	
Madison - - - -	73	157	65	160	
Matagorda - - - -	148	12	146	7	
Maverick - - - -					

Medina - - - -	125	46	131	23	9
Milam - - - -	213	256	213	257	
Montgomery - - -	161	290	170	277	
Nacogdoches - - -	441	592	454	597	
Navarro - - - -	311	380	285	361	
Newton - - - -	130	128	127	111	
Nueces - - - -	247	120	265	96	2
Orange - - - -	55	116	72	70	26
Palo Pinto - - - -	47	34	60	10	5
Panola - - - -	469	243	462	215	
Parker - - - -	139	387	229	184	33
Polk - - - -	361	110	364	102	
Presidio - - - -					
Red River - - - -	398	327	410	305	
Refugio - - - -	108	59	141	12	5
Robertson - - - -	162	199	150	191	
Rusk - - - -	1,009	748	1,034	711	
Sabine - - - -	66	199	63	180	1
San Augustine - - -	162	194	172	180	
San Patricio - - -	36	15	35	2	9
San Saba - - - -	37	39	37	40	
Shelby - - - -	203	378	219	357	
Smith - - - -	828	558	830	544	
Starr - - - -	358	75	361	68	
Tarrant - - - -	317	335	374	196	61
Titus - - - -	509	415	503	416	
Travis - - - -	458	498	509	487	
Trinity - - - -	234	170	214	150	
Tyler - - - -	304	141	349	69	
Upshur - - - -	593	345	600	347	
Uvalde - - - -	25	32	24	9	22
Van Zandt - - - -	282	113	283	95	
Victoria - - - -	190	108	187	106	1
Walker - - - -	356	390	373	377	
Washington - - - -	643	548	687	488	
Webb - - - -	344	8	353		
Wise - - - -	59	137	74	89	3
Wharton - - - -	154	19	158	6	
Williamson - - - -	289	293	301	194	64
Wood - - - -					
Young - - - -	45	20	48	17	
TOTAL - - - -	32,552	23,628	33,379	20,313	878

From which it is seen that Hardin R. Runnels received thirty-two thousand five hundred and fifty-two votes, and Sam Houston twenty-three thousand six hundred and twenty-eight votes for Governor; and for Lieutenant-Governor, Francis R. Lubbock received thirty-three thousand three hundred and seventy-nine votes; Jesse Grimes twenty thousand three hundred and eighteen votes; French Smith eight hundred and seventy-eight votes, and scattering thirty-seven votes.

Mr. Runnels having received the largest number of votes for Governor, and Mr. Lubbock the largest number for Lieutenant Governor, were declared by the Speaker duly elected Governor and Lieutenant-Governor of the State of Texas.

The Senate then returned to their Chamber, and on motion of Mr. Potter, adjourned until 4 o'clock, P. M.

FOUR O'CLOCK, P. M.

Senate met—roll called—no quorum present.

On motion of Mr. Britton, the Senate adjourned until tomorrow morning at 9 o'clock.

AUSTIN, Thursday, November 5, 1857.

The Senate met pursuant to adjournment; prayer by the Chaplain; roll called; quorum present.

The Journal of yesterday was read and adopted.

The President of the Senate announced the following additional Standing Committee:

COMMITTEE ON THE MILITIA—Messrs. Britton, Graham, Taylor of Fannin, Erath, and McCulloch.

Mr. Paschal presented the petition of Mrs. Ann T. Hunt; referred to the committee on Claims and Accounts.

Mr. Scarborough presented the petition of sundry citizens of the county of Goliad, and others, asking the creation of a new county; referred to the committee on Counties and County Boundaries.

Mr. Potter introduced a bill for the relief of the Galveston, Houston and Henderson Railroad Company, and in amendment of the Act of incorporation thereof, and of the Acts amending the same and in addition thereto; read 1st and 2nd times, and referred to the committee on Internal Improvements.